APPENDIX "A"

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Wilton R. Thompson,
Appellant.

vs.

United States of America,
Appellee.

No. 21,423

[January 2, 1968]

Appeal from the United States District Court
for the Northern District of California.

Before: BROWNING and ELY, Circuit Judges, and
THOMPSON, District Judge

PER CURIAM:

Appellant and Nathan Nyland Robeson were charged by indictment with entering a savings and loan association with intent to commit a larceny, in violation of 18 U.S.C. § 2113(a). Robeson pleaded guilty. Appellant pleaded not guilty and stood trial. The jury was unable to agree. Appellant was retried on an information charging the same offense. He was convicted and appealed. We find no prejudicial error, and therefore affirm.

Appellant objected to the admission of testimony of the witness Blair on the ground that proof of unexplained possession of unusual amounts of money after a robbery, "standing alone," is not competent evidence to connect the possessor with the robbery absent a showing of prior poverty, and that the government failed to establish the latter. However, the relevance of Blair's testimony did not depend upon the large amount involved but rather upon other unusual circumstances which the jury could regard as incriminating — particularly that appellant produced the sum

($3,000) from a brown paper shopping bag; that it consisted entirely of bills under twenty dollars in denomination and included two large bundles of five dollar bills and two hundred one dollar bills; that appellant told the witness Blair a false story as to the source of the bills; and that the alternate explanation offered at trial (that appellant kept his funds in unbanked cash to conceal them from a private investigator hired by his former wife) seemed at least questionable.

The record discloses that appellant's objection to the cross-examination of the witness Leighty as to whether he had been convicted of a felony was later withdrawn in return for a commitment by government counsel not to comment upon the matter in closing argument.

Appellant did not object to the testimony of the witness Heim which he now thinks inadmissible. If error occurred, it was not plain error, and it did not affect appellant's substantial rights.

We have examined the portions of the transcript to which appellant refers and cannot agree that in what was said government counsel "indirectly commented on appellant's failure to testify."

Appellant contends that reversal is required because the trial court, in instructing the jury as to factors to be considered in weighing the testimony of witnesses, did not specifically mention proof that a witness had made prior statements inconsistent with his testimony. No doubt it would have been better to do so, but in the context of the whole case we think the omission was harmless. In the course of trial, appellant's counsel was permitted to make a complete record for impeachment of various witnesses on this ground. In his argument to the jury he fully exploited the impeaching effect of the record thus made. In instructing the jury, the court made it unmistakably clear that the weight to be attached to the testimony of the witnesses was a matter for the jury's sole judgment, and that among the factors which the jury might consider was whether the witness "has wilfully testified falsely on a material matter," "the extent to which he or she is contradicted or corroborated by other evidence," and "any other matter which reasonably sheds light upon the credibility of the

witness." We are satisfied that the jury could not have been misled merely because the instructions did not include a reference in so many words to the impeaching effect of prior inconsistent statements.

We find no prejudicial misconduct on the part of government counsel, nor error in the denial of appellant's motion for acquittal or mistrial.

Affirmed.

United States Court of Appeals

FOR THE NINTH CIRCUIT

Wilton R. Thomson,

Appellant,

vs.,

United States of America

Appellee.

No. 21423

APPEAL from the United States District Court for the Northern District of California

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Northern District of California and was duly submitted.

ON CONSIDERATION WHEREOF, It is now ordered and adjudged by this Court, that the judgment of said District Court in this Cause be, and hereby is affirmed.

Filed and entered Jan. 2, 1968

Big Money in Silver Notes

NEW YORK—(UPI)—The declining value of the American dollar has become the butt of comedians' jokes. But the last laugh goes to the man or woman who holds a bill bearing the words, "silver certificates."

If you will take a look at the money in your wallet, you will find that bills in the denominations of $1, $5 and $10 are Federal Reserve notes. If you have a "silver certificate" you are lucky, because you can cash it for more than the face value.

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THERE ARE about 300 million silver certificates outstanding, but they are being redeemed in ever-increasing quantities at premiums of up to 50 percent of their real value. Holders have until June, 1968, to redeem them.

The hunt for silver certificates has spread from teen-agers to corporation executives, from supermarket cashiers to bank tellers. It is becoming a fad.

Nathan Taylor of Terminal Trading Corp., the largest of the silver certificate redemption centers in the nation, said his headquarters at 70 W. 23rd St. in New York is being swamped with registered mail containing silver certificates from all parts of the country.

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THE PREMIUM the holder receives from Terminal is directly connected with the closing price of spot silver on the New York Commodity Exchange on the day the registered mail arrives.

Taylor said the search for silver certificates has brought money out of unusual hiding places.

"It's interesting the places people select for hiding," Taylor said. "We can tell from the odor which certificates have been hidden in moth balls or cedar closets, which have been buried in the earth, hidden in musty attics or stored in damp cellars. Each has a distinctive odor."

Taylor said one batch of silver certificates received from Monrovia, Liberia, must have been buried for almost 20 years.

"If we sneezed near them we were sure they would disintegrate," Taylor said. "They were too fragile to put through the ticometer for counting, and, because of the difficulty in handling, it took one of our cashiers an exceptionally long time to count them."